Reprinted
April 14, 2009

ENGROSSED
SENATE BILL No. 218

DIGEST OF SB 218 (Updated April 13, 2009 7:06 pm - DI 103)

Citations Affected: IC 16-48; IC 21-44; IC 27-8; IC 27-13.

Synopsis: Health provider issues. Requires a health care provider or clinical laboratory that sends a patient sample for anatomic pathology services to a referral laboratory to disclose to the patient if the health care provider or clinical laboratory has a financial interest in the referral laboratory. Specifies requirements for claim payments to out of network health care providers. Provides that an "eligible institution", for purposes of the anatomical education program, must be an educational institution located in the United States. (Current law requires the institution be located in Indiana.)

Effective: July 1, 2009.

Miller, Mishler, Errington

(HOUSE SPONSORS — BROWN C, BROWN T, WELCH, FRIZZELL)

January 7, 2009, read first time and referred to Committee on Health and Provider Services.
February 5, 2009, amended, reported favorably — Do Pass.
February 12, 2009, read second time, ordered engrossed.
February 13, 2009, engrossed.
February 19, 2009, read third time, passed. Yeas 48, nays 2.

HOUSE ACTION

March 2, 2009, read first time and referred to Committee on Public Health.
April 6, 2009, amended, reported — Do Pass.
April 13, 2009, read second time, amended, ordered engrossed.

Reprinted
April 14, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

ENGROSSED
SENATE BILL No. 218

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-48 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

ARTICLE 48. OTHER HEALTH CARE PROVIDERS AND SERVICES

Chapter 1. Anatomic Pathology Services

Sec. 1. As used in this chapter, "anatomic pathology service" means the following performed, by a physician or under the supervision of a physician, on a sample taken from a human body:

(1) Histopathology or surgical pathology, meaning the gross and microscopic examination and histologic processing of organ tissue.

(2) Cytopathology, meaning the microscopic examination of cells from the following:

(A) Fluids.

(B) Aspirates.

(C) Washings.

(D) Brushings.

(E) Smears.

(3) Hematology, meaning the microscopic evaluation of bone marrow aspirates and biopsies, and peripheral blood smears when the attending or treating physician or technologist requests that a blood smear be reviewed by a pathologist.

(4) Subcellular pathology and molecular pathology.

(5) Blood banking services performed by pathologists.

Sec. 2. As used in this chapter, "referral laboratory" means a physician or clinical laboratory:

(1) to which a sample is sent by a referring laboratory; and

(2) by which an anatomic pathology service is performed;

for consultation or histologic processing.

Sec. 3. A health care provider or clinical laboratory that sends a patient sample for anatomic pathology services to a referral laboratory in which the health care provider or clinical laboratory has a financial interest (as defined in IC 25-22.5-11-1) shall:

(1) make the disclosures to the patient; and

(2) keep a record of the patient's acknowledgment of receipt of the disclosures;

as required under IC 25-22.5-11-3.

SECTION 2. IC 21-44-1-10, AS ADDED BY P.L.2-2007, SECTION 285, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. "Eligible institution", for purposes of:

(1) sections 2 and 11 of this chapter and IC 21-44-2, means a university, college, or other educational institution that:

(A) operates in ~~Indiana,~~ **the United States;** and

(B) offers a health education program leading to a baccalaureate, graduate, or postgraduate degree in a health related field including:

(i) medicine;

(ii) dentistry;

(iii) optometry;

(iv) nursing;

(v) physical therapy;

(vi) occupational therapy; or

(vii) other allied health fields; and

(2) IC 21-44-3, refers to a postsecondary educational institution that qualifies as an eligible institution under IC 21-44-3-1(4).

SECTION 3. IC 27-8-5.9 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]:

Chapter 5.9. Payment to a Noncontracted Provider

Sec. 1. The definitions in IC 27-8-11-1 apply throughout this chapter.

Sec. 2. As used in this chapter, "contracted provider" means a provider that has entered into an agreement with an insured under IC 27-8-11-3.

Sec. 3. As used in this chapter, "covered individual" means an individual who is entitled to coverage under a policy.

Sec. 4. As used in this chapter, "emergency" means a medical condition that arises suddenly and unexpectedly and manifests itself by acute symptoms of such severity, including severe pain, that the absence of immediate medical attention could reasonably be expected by a prudent layperson who possesses an average knowledge of health and medicine to:

(1) place an individual's health in serious jeopardy;

(2) result in serious impairment to the individual's bodily functions; or

(3) result in serious dysfunction of a bodily organ or part of the individual.

Sec. 5. As used in this chapter, "noncontracted provider" means a provider that has not entered into an agreement with an insurer under IC 27-8-11-3.

Sec. 6. If a policy provides coverage for a health care service that is rendered by a noncontracted provider:

(1) who renders the health care service on an emergency basis in a hospital or an ambulatory outpatient surgical center and submits a claim for the health care service on the appropriate insurer claim form; or

(2) who renders the health care service as:

(A) an anesthesiologist;

(B) a pathologist; or

(C) a radiologist;

in a hospital or an ambulatory outpatient surgical center that is a contracted provider;

the insurer shall make a benefit payment directly to the noncontracted provider for the health care service and send written notice of the payment to the covered individual or the authorized representative of the covered individual.

Sec. 7. If an insurer makes a payment to a covered individual for a health care service rendered by a noncontracted provider, the insurer shall include with the payment instrument written notice

to the covered individual that includes the following:

(1) A statement of the claims covered by the payment instrument.

(2) The amount paid by the insurer for each claim.

(3) Any amount of a claim that is the covered individual's responsibility.

(4) A statement in at least 14 point type that:

(A) instructs the covered individual to forward the payment to the noncontracted provider if the covered individual has not paid the noncontracted provider in full;

(B) specifies that paying the noncontracted provider is the covered individual's responsibility; and

(C) states that failure to make the payment violates the law and may result in collection proceedings.

Sec. 8. (a) Except as provided in subsection (b), a noncontracted provider or the noncontracted provider's agent shall disclose in writing to a covered individual the following applicable information:

(1) That the noncontracted provider has not entered into an agreement with the insurer under IC 27-8-11-3 to provide health care services to the covered individual.

(2) That the covered individual may be billed for health care services for which payment is not made by the insurer.

If the disclosure described in this subsection is included in a document containing consent for treatment, the disclosure must be displayed conspicuously.

(b) A disclosure is not required under this section if any of the following apply:

(1) The covered individual is unconscious, incoherent, or incompetent.

(2) The covered individual:

(A) arrives at a hospital required to provide emergency medical screening or care under 42 U.S.C. 1395dd; and

(B) seeks emergency medical screening or care.

(3) The noncontracted provider does not know and could not reasonably know that the covered individual is covered by an insurer with which the noncontracted provider has not entered into an agreement for the delivery of health care services.

(4) The noncontracted provider has been requested to render health care services to the covered individual after the covered individual has been admitted for inpatient or

outpatient services and the noncontracted provider's services were not part of the original treatment plan.

Sec. 9. This chapter does not prevent an insurer from voluntarily issuing a direct payment to a noncontracted provider.

SECTION 4. IC 27-13-1-22.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 22.5. "Nonparticipating provider" means a provider that has not entered into a contract with a health maintenance organization to serve as a participating provider.**

SECTION 5. IC 27-13-36.3 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 36.3. Payment to a Nonparticipating Provider

Sec. 1. If an individual contract or a group contract provides coverage for a health care service that is rendered by a nonparticipating provider:

(1) who renders the health care service on an emergency basis in a hospital or an ambulatory outpatient surgical center and submits a claim for the health care service on the appropriate health maintenance organization claim form; or

(2) who renders the health care service as:

(A) an anesthesiologist;

(B) a pathologist; or

(C) a radiologist;

in a hospital or an ambulatory outpatient surgical center that is a participating provider;

the health maintenance organization shall make a benefit payment directly to the nonparticipating provider for the health care service and send written notice of the payment to the enrollee or the authorized representative of the enrollee.

Sec. 2. If a health maintenance organization makes a payment to an enrollee for a health care service rendered by a nonparticipating provider, the health maintenance organization shall include with the payment instrument written notice to the enrollee that includes the following:

(1) A statement of the claims covered by the payment instrument.

(2) The amount paid by the health maintenance organization for each claim.

(3) Any amount of a claim that is the enrollee's responsibility.

(4) A statement in at least 14 point type that:

(A) instructs the enrollee to forward the payment to the nonparticipating provider if the enrollee has not paid the nonparticipating provider in full;

(B) specifies that paying the nonparticipating provider is the enrollee's responsibility; and

(C) states that failure to make the payment violates the law and may result in collection proceedings.

Sec. 3. (a) Except as provided in subsection (b), a nonparticipating provider or the nonparticipating provider's agent shall disclose in writing to an enrollee the following applicable information:

(1) That the nonparticipating provider has not entered into an agreement with the health maintenance organization to provide health care services to the enrollee.

(2) That the enrollee may be billed for health care services for which payment is not made by the health maintenance organization.

If the disclosure described in this subsection is included in a document containing consent for treatment, the disclosure must be displayed conspicuously.

(b) A disclosure is not required under this section if any of the following apply:

(1) The enrollee is unconscious, incoherent, or incompetent.

(2) The enrollee:

(A) arrives at a hospital required to provide emergency medical screening or care under 42 U.S.C. 1395dd; and

(B) seeks emergency medical screening or care.

(3) The nonparticipating provider does not know and could not reasonably know that the enrollee is covered by a health maintenance organization with which the nonparticipating provider has not entered into a contract for the delivery of health care services.

(4) The nonparticipating provider has been requested to render health care services to the enrollee after the enrollee has been admitted for inpatient or outpatient services and the nonparticipating provider's services were not part of the original treatment plan.

Sec. 4. This chapter does not prevent a health maintenance organization from voluntarily issuing a direct payment to a nonparticipating provider.

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 218, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 28, delete "or other health care provider" and insert "**public health clinic, or rural health clinic.**".

Page 2, delete line 29.

and when so amended that said bill do pass.

(Reference is to SB 218 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 9, Nays 0.

Report of the Senate
Committee on Ethics

Madam President: Pursuant to Senate Rule 94, the Senate Committee on Ethics met on February 12, 2009, to render an advisory opinion with regard to the question raised by Senator Dillon about his participation in the upcoming votes on Senate Bill 218 due to a potential conflict of interest.

The Senate Committee on Ethics has considered the facts presented by Senator Dillon and hereby recommends that Senator Dillon be excused from participation in all votes pertaining to Senate Bill 218 because of his potential conflict of interest with regard to the legislation. The vote of the Committee was 4-0.

Senator Bray presided over the meeting since the question was raised by the Chair of the Committee, Senator Dillon.

BRAY, Ranking Member

Report of the President
Pro Tempore

Madam President: I hereby report that when Senate Bill 218 was called for a vote on third reading Senator Dillon inadvertently cast a vote for the bill which overrode his excused status in the roll call system. The Senate notes that he did not participate in the debate on the bill and did not intend to vote with regard to Senate Bill 218.

LONG

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 218, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 9 through 16.

Page 2, line 17, delete "3." and insert "**2.**".

Page 2, line 22, delete "4." and insert "**3.**".

Page 2, line 22, after "that" insert "**sends a patient sample for anatomic pathology services to a referral laboratory in which the health care provider or clinical laboratory has a financial interest (as defined in IC 25-22.5-11-1) shall:**

(1) make the disclosures to the patient; and

(2) keep a record of the patient's acknowledgment of receipt of the disclosures;

as required under IC 25-22.5-11-3.".

Page 2, delete lines 23 through 42, begin a new paragraph and insert:

"SECTION 2. IC 21-44-1-10, AS ADDED BY P.L.2-2007, SECTION 285, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. "Eligible institution", for purposes of:

(1) sections 2 and 11 of this chapter and IC 21-44-2, means a university, college, or other educational institution that:

(A) operates in ~~Indiana,~~ **the United States;** and

(B) offers a health education program leading to a baccalaureate, graduate, or postgraduate degree in a health related field including:

(i) medicine;

(ii) dentistry;

(iii) optometry;
(iv) nursing;
(v) physical therapy;
(vi) occupational therapy; or
(vii) other allied health fields; and

(2) IC 21-44-3, refers to a postsecondary educational institution that qualifies as an eligible institution under IC 21-44-3-1(4).".

Delete page 3.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 218 as printed February 6, 2009.)

BROWN C, Chair

Committee Vote: yeas 11, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 218 be amended to read as follows:

Page 2, after line 40, begin a new paragraph and insert:

"SECTION 3. IC 27-8-5.9 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

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Sec. 3. As used in this chapter, "covered individual" means an individual who is entitled to coverage under a policy.

Sec. 4. As used in this chapter, "emergency" means a medical condition that arises suddenly and unexpectedly and manifests itself by acute symptoms of such severity, including severe pain, that the absence of immediate medical attention could reasonably be expected by a prudent layperson who possesses an average knowledge of health and medicine to:

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Sec. 5. As used in this chapter, "noncontracted provider" means a provider that has not entered into an agreement with an insurer under IC 27-8-11-3.

Sec. 6. If a policy provides coverage for a health care service that is rendered by a noncontracted provider:

(1) who renders the health care service on an emergency basis in a hospital or an ambulatory outpatient surgical center and submits a claim for the health care service on the appropriate insurer claim form; or

(2) who renders the health care service as:

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(A) instructs the covered individual to forward the payment to the noncontracted provider if the covered individual has not paid the noncontracted provider in full;

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(2) That the covered individual may be billed for health care services for which payment is not made by the insurer.

If the disclosure described in this subsection is included in a document containing consent for treatment, the disclosure must be displayed conspicuously.

(b) A disclosure is not required under this section if any of the following apply:

(1) The covered individual is unconscious, incoherent, or incompetent.

(2) The covered individual:

(A) arrives at a hospital required to provide emergency medical screening or care under 42 U.S.C. 1395dd; and

(B) seeks emergency medical screening or care.

(3) The noncontracted provider does not know and could not reasonably know that the covered individual is covered by an insurer with which the noncontracted provider has not entered into an agreement for the delivery of health care services.

(4) The noncontracted provider has been requested to render health care services to the covered individual after the covered individual has been admitted for inpatient or outpatient services and the noncontracted provider's services were not part of the original treatment plan.

Sec. 9. This chapter does not prevent an insurer from voluntarily issuing a direct payment to a noncontracted provider.

SECTION 4. IC 27-13-1-22.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 22.5. "Nonparticipating provider" means a provider that has not entered into a contract with a health maintenance organization to serve as a participating provider.**

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in a hospital or an ambulatory outpatient surgical center and submits a claim for the health care service on the appropriate health maintenance organization claim form; or

(2) who renders the health care service as:

(A) an anesthesiologist;

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document containing consent for treatment, the disclosure must be displayed conspicuously.

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(1) The enrollee is unconscious, incoherent, or incompetent.

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(A) arrives at a hospital required to provide emergency medical screening or care under 42 U.S.C. 1395dd; and

(B) seeks emergency medical screening or care.

(3) The nonparticipating provider does not know and could not reasonably know that the enrollee is covered by a health maintenance organization with which the nonparticipating provider has not entered into a contract for the delivery of health care services.

(4) The nonparticipating provider has been requested to render health care services to the enrollee after the enrollee has been admitted for inpatient or outpatient services and the nonparticipating provider's services were not part of the original treatment plan.

Sec. 4. This chapter does not prevent a health maintenance organization from voluntarily issuing a direct payment to a nonparticipating provider.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 218 as printed April 7, 2009.)

BROWN T